

FISCAL NOTE

Bill #: SB0201

Title: Security for anhydrous ammonia tanks -- funding

Primary Sponsor: Smith, F

Status: as introduced

Sponsor signature

Date

David Ewer, Budget Director

Date

Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
Federal Special Revenue	\$14,628	\$14,624
Revenue:		
Federal Special Revenue	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

<input type="checkbox"/> Significant Local Gov. Impact	<input checked="" type="checkbox"/> Technical Concerns
<input type="checkbox"/> Included in the Executive Budget	<input type="checkbox"/> Significant Long-Term Impacts
<input type="checkbox"/> Dedicated Revenue Form Attached	<input checked="" type="checkbox"/> Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Justice (DOJ)

1. According to the provisions of 44-12-206(3)(b), MCA, only one-half of the state drug forfeiture proceeds deposited in excess of \$125,000 each year would be available to purchase anhydrous ammonia tank locks. Revenues from state drug forfeitures have not exceeded \$125,000 since FY 2001. Revenues are not estimated to exceed \$125,000 in either year of the 2007 biennium. Therefore, no expenditures or revenues are projected for Department of Justice to implement this program in FY 2006 or FY 2007.

Department of Agriculture (DOA)

2. Since no state special revenue funds will be available, it is assumed that any expenditures related to this bill would be incurred from federal funds if the department is successful in seeking federal funding. However, it is unknown if and how much federal funding the department would receive.
3. The department would notify anhydrous ammonia tank owners of lock requirements upon bill passage and when funds are available for a particular county. Estimated effort will be approximately 20 hours or one percent of a FTE. Correspondence and communication (phone and mail) is estimated at \$200 initially and \$125 thereafter for each county as funds become available.
4. The department will be expected to develop rules and undertake rule making to address lock specifications, installation of locks, timing of lock installation after a county has available funds, reimbursement

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procedures, coordination with Department of Justice, temporary or permanent variance criteria, enforcement and penalties. The estimate to amend rules for 6 sections of law at 1.75 pages per section (approximately 10.50 pages) and \$40 per page of rule. An additional \$200 for communication on rule making process.

5. The estimated effort will be approximately 160 hours or approximately 7.70 percent of a FTE.
6. The amount of time and cost necessary for the development and administration of the reimbursement program cannot be estimated.
7. The department will be expected to ensure locks are installed and maintained in counties where funds became available for locks. Current inspection schedule includes an inspection of each facility once every three years. Given current inspection schedule, this activity will not require any additional FTE or expenditures (there are 800 anhydrous ammonia nurse tanks in the state of Montana).
8. Research, identification, application, and administration of grant(s) program represents a new, additional activity. Estimated time to complete these activities is 368 hours or 17.70 percent of a FTE.
9. Enforcement activities are to include investigations, case development, seizure proceedings, penalty calculations, and consent orders, etc. It is estimated there might be two noncompliance issues per year. A minimum of 32 hours per (1.50 percentage of a FTE) investigation for those cases not referred to the county for prosecution.
10. For the combination of the above mention activities, the department estimates it would need an additional 0.30 FTE and related operating expenses.
11. The estimated costs of locks is \$150.00 per lock. Because federal funding for the purchase of the locks is uncertain, it is unknown how many locks would be funded and therefore no estimate is included.

FISCAL IMPACT:**Department of Agriculture (DOA)**

	<u>FY 2006</u> <u>Difference</u>	<u>FY 2007</u> <u>Difference</u>
FTE	0.30	0.30

Expenditures:

Personal Services	\$6,755	\$6,751
Operating Expenses	<u>\$7,873</u>	<u>\$7,872</u>
TOTAL	\$14,628	\$14,624

Funding of Expenditures:

Federal Special Revenue (03) (if received)	\$14,628	\$14,624
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Revenue:

Federal Special Revenue (03)	unknown	unknown
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Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

Federal Special Revenue (03)	(\$14,628)	(\$14,624)
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:**Department of Agriculture (DOA)**

1. Currently, the only enforcement penalty is a misdemeanor through the court system, generally where the infraction of statute occurred. This will impact county attorney workload, and hence, the county expenditures. The department did not attempt to calculate the possible impact on county or local revenue or expenditures

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TECHNICAL NOTES:

Department of Justice (DOJ)

1. Per 44-12-206, MCA, the Department of Justice is required to expend the state drug forfeiture revenues only to enforce drug laws. Purchases of anhydrous ammonia tank locks may not qualify as a legal expenditure of these funds.

Department of Agriculture (DOA)

2. The bill does not specify a priority system for distributing any available funding for lock purchases.
3. Section 80-10-506, MCA of Part 5: Anhydrous Ammonia Facilities, requires that any facility in operation prior to the adoption of rules under 80-10-503, MCA, that is not in compliance with the rules must be allowed to continue in operation unless the department determines that the facility presents a safety hazard to employees or other persons using the facility or the public. Further, Section 80-10-507, MCA allows a request to be made for a variance from any rule governing the design, construction, repair, alteration, location, installation, or operation of a facility. As such, pre-existing facilities may not be required to comply with the intent of the statutory language of this bill.
4. Funding, as specified in the bill proposal, provides revenue to the department in terms of federal grant monies that the department identifies, applies for and is awarded. The department is unaware of any grant funding sources that would match this objective. Funding, therefore, is unpredictable and variable and the department is unable to determine if necessary funding will be available for the activities required under the statute.